

EXHIBIT

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1 UNITED STATES DISTRICT COURT
1 SOUTHERN DISTRICT OF NEW YORK

2 -----x

3 In re: TERRORIST ATTACKS ON
3 SEPTEMBER 11, 2001 03 MDL 1570 (GBD)

4 -----x

New York, N.Y.
October 28, 2010
11:00 a.m.

7 Before:

8 HON. FRANK MAAS

Magistrate Judge

11 APPEARANCES

13 COZEN O'CONNOR
13 Attorneys for plaintiff Federal Insurance
14 BY: SEAN P. CARTER

15 KREINDLER & KREINDLER
16 Attorneys for Ashton plaintiffs
16 BY: ANDREW J. MALONEY, III

18 MOTLEY RICE LLC
18 Attorneys for Burnett plaintiffs
19 BY: ROBERT T. HAEFELE

20 HANLY CONROY BIERSTEIN SHERIDAN FISHER HAYES LLP
21 Attorneys for Burnett and Euro Brokers plaintiffs
21 BY: ANDREA BIERSTEIN

23 ANDERSON KILL & OLICK, P.C.
23 Attorneys for O'Neill plaintiffs
24 BY: JERRY S. GOLDMAN

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3 Attorneys for Defendants Al Haramain Islamic Foundation

3 and P. Sedaghaty

4 BY: ALAN R. KABAT

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5 STEVEN K. BARENTZEN

6 Attorney for Defendant Dr. Jamal Barzinji

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7 CLIFFORD CHANCE US LLP

8 Attorneys for Defendant Dubai Islamic Bank

8 BY: STEVEN T. COTTREAU

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10 OMAR T. MOHAMMEDI

10 Attorney for defendants Wamy International, Inc. and CAIR

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1 specific.

2 MR. CARTER: That's fine. Thank you, your Honor.

3 MR. HAEFELE: Your Honor, you had set three dates, and
4 I think we moved the January 14th date. Did you want to keep
5 the February 8th date?

6 THE COURT: I thought about pushing that back a
7 little. I may be out of town the following week. The 11th is
8 a holiday. Why don't we leave it for now and see what happens
9 as we go along.

10 Is there anything else that we ought to take up other
11 than the Al Haramain motion?

12 MR. CARTER: No, your Honor.

13 THE COURT: Having read through the papers regarding
14 the Al Haramain U.S. entity's duty to produce documents within
15 the files of the Saudi Arabian entity, it seems to me that the
16 only real showing that was made of the practical ability of the
17 U.S. entity to obtain documents, as opposed to money, from the
18 Saudi entity was a request for certain Islamic literature,
19 which, it seems to me, was not indicative of its ability to
20 secure financial and other records from the Saudi Arabian
21 entity.

22 To the extent that the motion is predicated on the
23 theory that the U.S. entity had control in some sense of those
24 documents, I reject that claim.

25 On the other hand, to the extent that the argument is
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1 that the U.S. and Saudi entities are alter egos of one
2 another -- it seems to me that that is correct based on each of
3 the factors that was discussed during oral argument -- it seems
4 to me that essentially the Saudi entity controlled in many
5 respects the U.S. entity and that the two were
6 indistinguishable from one another, which gives rise to a duty
7 to produce.

8 Turning to the specific discovery requests, there are
9 document requests and there are interrogatories, none of which
10 were discussed when the motion was orally argued but which
11 certainly are fully briefed in the letter submissions that were
12 made to me.

13 As to the interrogatories, I agree with the defendants
14 that they violated the prior arrangements concerning the number
15 of acceptable interrogatories and did so without prior
16 permission of the Court. So as to interrogatories, I'm going
17 to sustain the objection and not compel further answers.

18 On the other hand, as to the document requests, it
19 seems to me essentially what I was given was only boilerplate
20 assertions of burdensomeness. To the extent that the
21 objections were on that ground, I'm going to overrule those
22 objections. I am therefore going to direct the U.S. foundation
23 to produce the documents requested by the plaintiffs which are
24 in its possession, custody, or control. And notwithstanding
25 the complications that were outlined in the defendants' papers,

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1 I'm going to make the same direction as to the Saudi
2 foundation.

3 I agree with the plaintiffs that there has been no
4 adequate showing that the Saudi entity has sought to obtain the
5 documents but cannot. There was an affidavit or declaration
6 from Mr. Nelson and also from the second individual, Mr.
7 al-Buti. But the two of them together, it seems to me, does
8 not amount to an adequate showing that the Saudi foundation,
9 even in the circumstance that persists today, necessarily
10 cannot obtain documents.

11 Having directed both the U.S. and the Saudi entities
12 to produce documents, I recognize that that may not open the
13 floodgates in terms of document production, and I intend to
14 leave for another day what the consequences of any
15 nonproduction by either of those two defendants will be.

16 That is my ruling with respect to the letter
17 application concerning Al Haramain. Any questions?

18 Anything further we ought to take up today?

19 MR. CARTER: I don't think so, your Honor.

20 THE COURT: Good. Thank you for coming in.
21 (Adjourned)

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